

REMARKS

This application has been carefully reviewed in light of the Office Action of December 20, 2007. Claims 19, 33-42 and 44 are now in this application. Claims 19, 33 and 44 are independent. Favorable reconsideration is respectfully requested.

Applicants note with appreciation the allowance of Claims 33-42.

The Office Action entered rejections of Claim 44 under 35 U.S.C. § 102(b) as being anticipated by over U.S. Patent 5,423,858(Bolanos et al.), and of Claim 19, under 35 U.S.C. § 103(a) as being obvious from that patent. From the Examiner's statement of his reasons for finding the above claims allowable, it is understood that the rejected claims were all rejected for not containing a recitation of both a piece having the male connector and a piece having the female connector. If this understanding is correct, then Claims 44 and 19 should not have been rejected, as both contain such a recitation. Claim 44 recites, in this regard,

“at least two implantable struts each having a first connector element, and at least one implantable element having a second connector element, ... each said first connector element comprising material extending from its respective said strut in a direction that is perpendicular to said plane of that strut and defining a receptacle exhibiting a degree of resilience and at least a portion of which extends from that plane, and said second connector element comprising material having a shape and size to be received snappingly in either of said receptacles, and said first and second struts and said implantable element being provided in said kit with said first and said second connector elements not engaging each other [emphases added]”,

and Claim 19,

“said connector element of said first surgical implant being a female connector element and said connector element of said first surgical implant being a male connector element, said male and female connector elements being respectively shaped such as to be snappingly attachable to each other, and said first and second surgical implants being provided in said kit with said male and female connector elements not snappingly attached to each other [emphases added]”.

Accordingly, it is believed that the Examiner has overlooked that these claims are allowable. If in fact these claims were rejected for some other reason, Applicant invites the Examiner to issue a new Office Action explaining the reason.

The Office Action also entered rejections of Claims 2, 3 and 43 under 35 U.S.C. § 102(b) as being anticipated by over U.S. Patent 5,423,858(Bolanos et al.), and of Claims 13, 14 and 16, under 35 U.S.C. § 103(a) as being obvious from that patent. Claims 2, 3, 13, 14, 16 and 43 (and all their respective dependent claims withdrawn from consideration) have been cancelled, and as set out above the remaining claims are all believed to be allowable. The foregoing actions have been taken without prejudice or disclaimer of subject matter, and without conceding correctness of the rejections, but rather strictly to obtain an earlier allowance and to expedite issuance. In particular, Applicant reserves his right to file a continuing application to pursue the subject matter of the rejected claims.

The only changes made are the cancellation of rejected claims, and therefore entry of this Amendment After Final Action is respectfully requested. Should the Examiner believe that issues remain outstanding, he is respectfully requested to contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Leonard P Diana/

Leonard P. Diana
Attorney for Applicant
Registration No. 29,296

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCHS_WS 2050658v1